

115TH CONGRESS  
2D SESSION

# S. 3121

To amend the Federal Water Pollution Control Act, the Safe Drinking Water Act, and the Water Infrastructure Finance and Innovation Act of 2014 to require maximum open and free competition in procurement for projects receiving assistance under those Acts, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 2018

Mr. PAUL introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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# A BILL

To amend the Federal Water Pollution Control Act, the Safe Drinking Water Act, and the Water Infrastructure Finance and Innovation Act of 2014 to require maximum open and free competition in procurement for projects receiving assistance under those Acts, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Water Infrastructure  
5 Transparency Act”.

1     **SEC. 2. CLEAN WATER STATE REVOLVING FUNDS.**

2         Section 603 of the Federal Water Pollution Control  
3     Act (33 U.S.C. 1383) is amended by adding at the end  
4     the following:

5             “(j) MAXIMUM OPEN AND FREE COMPETITION.—In  
6     providing assistance from the water pollution control re-  
7     volving fund of the State established in accordance with  
8     this title for a project, the State shall ensure that—

9                 “(1) to the maximum extent practicable, each  
10     procurement transaction for the project is conducted  
11     in a manner that provides maximum open and free  
12     competition;

13                 “(2) in developing the specifications for the  
14     project, the recipient considers the use of all mate-  
15     rials normally suitable for such a project that are  
16     commensurate with sound engineering practices and  
17     project requirements; and

18                 “(3) with respect to each solicitation of an offer  
19     for procurement for the project, the offer—

20                     “(A) incorporates a clear and accurate de-  
21     scription of the technical requirements for the  
22     material, product, or service to be procured;  
23     and

24                     “(B) defines the performance or other sa-  
25     lient requirements of the procurement.”.

1     **SEC. 3. DRINKING WATER STATE REVOLVING FUNDS.**

2         Section 1452(a) of the Safe Drinking Water Act (42  
3     U.S.C. 300j–12(a)) is amended by adding at the end the  
4     following:

5             “(5) MAXIMUM OPEN AND FREE COMPETI-  
6     TION.—In providing assistance from a State loan  
7     fund for a project, the State shall ensure that—

8                 “(A) to the maximum extent practicable,  
9     each procurement transaction for the project is  
10    conducted in a manner that provides maximum  
11    open and free competition;

12                 “(B) in developing the specifications for  
13    the project, the public water system considers  
14    the use of all materials normally suitable for  
15    such a project that are commensurate with  
16    sound engineering practices and project require-  
17    ments; and

18                 “(C) with respect to each solicitation of an  
19    offer for procurement for the project, the  
20    offer—

21                     “(i) incorporates a clear and accurate  
22    description of the technical requirements  
23    for the material, product, or service to be  
24    procured; and

25                     “(ii) defines the performance or other  
26    salient requirements of the procurement.”.

1   **SEC. 4. WATER INFRASTRUCTURE FINANCE AND INNOVA-**

2                   **TION ACT OF 2014.**

3       Section 5028(a) of the Water Infrastructure Finance  
4   and Innovation Act of 2014 (33 U.S.C. 3907(a)) is  
5   amended by adding at the end the following:

6                   “(7) MAXIMUM OPEN AND FREE COMPETI-  
7   TION.—The Secretary or the Administrator, as ap-  
8   plicable, may not provide financial assistance to a  
9   project under this subtitle unless—

10                  “(A) to the maximum extent practicable,  
11                  each procurement transaction for the project is  
12                  conducted in a manner that provides maximum  
13                  open and free competition;

14                  “(B) in developing the specifications for  
15                  the project, the eligible entity considers the use  
16                  of all materials normally suitable for such a  
17                  project that are commensurate with sound engi-  
18                  neering practices and project requirements; and

19                  “(C) with respect to each solicitation of an  
20                  offer for procurement for the project, the  
21                  offer—

22                   “(i) incorporates a clear and accurate  
23                  description of the technical requirements  
24                  for the material, product, or service to be  
25                  procured; and

- 1           “(ii) defines the performance or other  
2           salient requirements of the procurement.”.

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